

Patent
Attorney's Docket No. 032491-013

#18

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)

Wayne Noda, et al.)

Application No.: 09/133,813)

Filed: August 13, 1998)

For: INDWELLING HEAT EXCHANGE)
CATHETER AND METHOD OF)
USING SAME)

Group Art Unit: 3762

Examiner: Bianco, P.

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TC 3100 MAIL ROOM

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PETITION TO CORRECT INVENTORSHIP UNDER 37 C.F.R. 1.48(a)

Assistant Commissioner of Patents
Washington, D.C. 20231

Sir:

Filed on May 17, 2000 was a Declaration and Power of Attorney identifying Wayne Noda, Mike Jones, Scott Evans, Blair Walker, and William Worthen as sole inventors in the above-referenced patent application. Subsequently, it was determined that the present application in fact was co-invented by Mr. Yves Pierre Gobin, who was not listed on the Declaration and Power of Attorney. Accordingly, Applicants hereby petition that the application be amended to reflect the inventorship status Mr. Gobin.

In support of this petition, Applicants enclose herewith a Statement of Lack of Deceptive Intention signed by Mr. Gobin, a Combined Declaration and Power of Attorney executed by the actual inventors, a statement of the written Consent of Assignees, a copy of

the executed Assignment, and the fee required under § 1.17(i).

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

By: 

Khaled Shami

Registration No. 38,745

P.O. Box 1404
Alexandria, Virginia 22313-1404

Date: October 26, 2000



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OFFICE OF PETITIONS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:
NODA ET. AL.

SERIAL NO. : 09/133,813

FILED: AUG. 13, 1998

FOR: INDWELLING HEAT
EXCHANGE CATHETER AND
METHOD OF USING SAME

) Examiner: P. Bianco

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) Group Art Unit: 3762

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TC 3700 MAIL ROOM

STATEMENT BY ADDED INVENTOR

37 CFR 1.48(a)

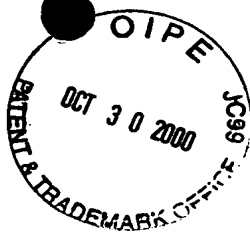
I, Yves Pierre Gobin, declare that:

1. The inventive entity named in the declaration in the above application was in error, namely by omitting my name as one of the co-inventors.
2. The error arose on my part without any deceptive intention.
3. All statements above are made based on my own knowledge are true and all statements made on information and belief are believed to be true.

I have been warned that willful false statements and the like are punishable by fine or imprisonment, or both (18 USC 1001) and may jeopardize the validity of the application, patent issuing or proceedings based thereon.

Date: 8/23 2000

Yves Pierre Gobin



Patent
Attorney's Docket No. 032491-013

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)

Wayne NODA, et al.)

Application No.: 09/133,813)

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DECLARATION OF LACK OF DECEPTIVE INTENTION

Assistant Commissioner of Patents
Washington, D.C. 20231

Sir:

I, Yves Pierre Gobin, hereby declare that I am an inventor in the above-referenced application and that I was not named as an inventor because of an error which arose without any deceptive intention on my part.

Yves Pierre Gobin

8/23/00

Date

COMBINED DECLARATION FOR PATENT APPLICATION AND POWER OF ATTORNEY
(Includes Reference to Provisional and PCT International Applications)

Attorney's Docket No.

032491-013

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name;
I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which patent is sought on the invention entitled:

INDWELLING HEAT EXCHANGE CATHETER AND METHOD OF USING SAME

the specification of which (check only one item below):

☐ is attached hereto.

☒ was filed as United States application

Number 09/133,813

on August 13, 1998

and was amended

on _____ (if applicable).

☐ was filed as PCT international application

Number _____

on _____

and was amended

on _____ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose to the Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, §1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, §119 (a)-(e) of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed:

PRIOR FOREIGN/PCT APPLICATION(S) AND ANY PRIORITY CLAIMS UNDER 35 U.S.C. §119:

COUNTRY (if PCT, indicate "PCT")	APPLICATION NUMBER	DATE OF FILING (day, month, year)	PRIORITY CLAIMED UNDER 35 U.S.C. §119
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below.

(Application Number)

(Filing Date)

(Application Number)

(Filing Date)

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I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) or PCT international application(s) designating the United States of America that is/are listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in that/those prior application(s) in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose to the Office all information known to me to be material to the patentability as defined in Title 37, Code of Federal Regulations §1.56, which became available between the filing date of the prior application(s) and the national or PCT international filing date of this application:

PRIOR U.S. APPLICATIONS OR PCT INTERNATIONAL APPLICATIONS DESIGNATING THE U.S. FOR BENEFIT UNDER 35 U.S.C. §120:

U.S. APPLICATIONS		STATUS (check one)		
U.S. APPLICATION NUMBER	U.S. FILING DATE	PATENTED	PENDING	ABANDONED
09/063,984	April 21, 1998		X	
PCT APPLICATIONS DESIGNATING THE U.S.				
PCT APPLICATION NO.	PCT FILING DATE	U.S. APPLICATION NUMBERS ASSIGNED (if any)		

I hereby appoint the following attorneys and agent(s) to prosecute said application and to transact all business in the Patent and Trademark Office connected therewith and to file, prosecute and to transact all business in connection with international applications directed to said invention:

William L. Mathis	17,337	R. Danny Huntington	27,903	Gerald F. Swiss	30,113
Robert S. Swecker	19,885	Eric H. Weisblatt	30,505	Michael J. Ure	33,089
Platon N. Mandros	22,124	James W. Peterson	26,057	Charles F. Wieland III	33,096
Benton S. Duffett, Jr.	22,030	Teresa Stanek Rea	30,427	Bruce T. Wieder	33,815
Norman H. Stepno	22,716	Robert E. Krebs	25,885	Todd R. Walters	34,040
Ronald L. Grudziecki	24,970	William C. Rowland	30,888	Ronni S. Jillions	31,979
Frederick G. Michaud, Jr.	26,003	T. Gene Dillahunt	25,423	Harold R. Brown III	36,341
Alan E. Kopecki	25,813	Patrick C. Keane	32,858	Allen R. Baum	36,086
Regis E. Slutter	26,999	Bruce J. Boggs, Jr.	32,344	Steven M. du Bois	35,023
Samuel C. Miller, III	27,360	William H. Benz	25,952	Brian P. O'Shaughnessy	32,747
Robert G. Mukai	28,531	Peter K. Skiff	31,917	Kenneth B. Leffler	36,075
George A. Hovanec, Jr.	28,223	Richard J. McGrath	29,195	Fred W. Hathaway	32,236
James A. LaBarre	28,632	Matthew L. Schneider	32,814		
E. Joseph Gess	28,510	Michael G. Savage	32,596		



21839

and: Khaled Shami, Reg. No. 38,745, Arlyn L. Alonzo, Reg. No. 44,502, John L. Rogitz, Reg. No. 33,549

Address all correspondence to:



21839

Robert E. Krebs
BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria, Virginia 22313-1404

Address all telephone calls to: Khaled Shami at (650) 622-2300.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

FULL NAME OF SOLE OR FIRST INVENTOR Wayne A. Noda		SIGNATURE <i>Wayne Noda</i>	DATE 8/30/00
RESIDENCE 28072 Paseo Rincon, Mission Viejo, California 92692		CITIZENSHIP U.S.A.	
POST OFFICE ADDRESS 28072 Paseo Rincon, Mission Viejo, California 92692			
FULL NAME OF SECOND JOINT INVENTOR, IF ANY Mike L. Jones		DATE 9/20/00	<i>[Signature]</i>
RESIDENCE 34441 Camino El Molino, Capistrano Beach, California 92624		CITIZENSHIP U.S.A.	
POST OFFICE ADDRESS 34441 Camino El Molino, Capistrano Beach, California 92624			
FULL NAME OF THIRD JOINT INVENTOR, IF ANY Scott M. Evans		SIGNATURE <i>Scott M Evans</i>	DATE 8/9/00
RESIDENCE 1252 Country Hills Drive, Santa Ana, California 92705		CITIZENSHIP U.S.A.	
POST OFFICE ADDRESS 1252 Country Hills Drive, Santa Ana, California 92705			
FULL NAME OF FOURTH JOINT INVENTOR, IF ANY Blair D. Walker		SIGNATURE <i>Blair D. Walker</i>	DATE 8/30/00
RESIDENCE 24742 San Doval Lane, Mission Viejo, CA 92691		CITIZENSHIP U.S.A.	
POST OFFICE ADDRESS 24742 San Doval Lane, Mission Viejo, CA 92691			
FULL NAME OF FIFTH JOINT INVENTOR, IF ANY William J. Worthen		SIGNATURE <i>WJ Worthen</i>	DATE 10/23/00
RESIDENCE 37 Oakbrook, Coto de Caza, California 92679		CITIZENSHIP U.S.A.	
POST OFFICE ADDRESS 37 Oakbrook, Coto de Caza, California 92679			
FULL NAME OF SIXTH JOINT INVENTOR, IF ANY Yves Pierre Gobin		SIGNATURE <i>Y. Gobin</i>	DATE 8/23/00
RESIDENCE 3137 Cavendish, Los Angeles, California 90064		CITIZENSHIP France	
POST OFFICE ADDRESS 3137 Cavendish, Los Angeles, California 90064			
FULL NAME OF SEVENTH JOINT INVENTOR, IF ANY		SIGNATURE	DATE
RESIDENCE		CITIZENSHIP	
POST OFFICE ADDRESS			
FULL NAME OF EIGHTH JOINT INVENTOR, IF ANY		SIGNATURE	DATE
RESIDENCE		CITIZENSHIP	
POST OFFICE ADDRESS			
FULL NAME OF NINTH JOINT INVENTOR, IF ANY		SIGNATURE	DATE
RESIDENCE		CITIZENSHIP	
POST OFFICE ADDRESS			

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

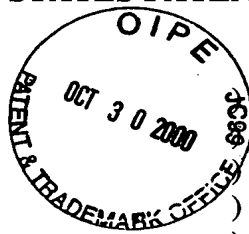
In re Patent Application of

Wayne NODA, et al.

Application No.: 09/133,813

Filed: August 13, 1998

For: INDWELLING HEAT EXCHANGE
CATHETER AND METHOD OF
USING SAME



Group Art Unit: 3762

Examiner: Bianco, P.

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OFFICE OF PETITIONS

CONSENT OF ASSIGNEE

Assistant Commissioner of Patents
Washington, D.C. 20231

Sir:

On behalf of Alsius Corporation, Assignee of the above-referenced patent application,
I, William J. Worthen, President and Chief Executive Officer, hereby consent to the addition
of Yves Pierre Gobin as co-inventor.

By: _____

William J. Worthen

A handwritten signature in black ink, appearing to read "WJ Worthen", written over a horizontal line.

10/23/00

Date: _____

ASSIGNMENTU.C. Case No. 1999-501-2

For good and valuable consideration, the receipt of which is hereby acknowledged, ASSIGNOR(S),

1. Yves Pierre Gobin

hereby sells, assigns and transfers to ASSIGNEE, The Regents of the University of California, a California Corporation, having its statewide administrative offices located 1111 Franklin Street, 12th Floor, Oakland, CA 94607-5200, and the successors, assigns and legal representatives of the ASSIGNEE all of its right, title and interest for the United States and its territorial possessions and in all foreign countries in and to, any and all improvements which are disclosed in the invention entitled:

INDWELLING HEAT EXCHANGE CATHETER AND METHOD OF USING SAME

and which is found in

- (a) _____ U.S. application filed herewith and listing the above named persons as inventors
- (b) _____ Patent application filed herewith and listing the above named persons as inventors
- (c) X U.S. application serial no. 09,133,813, filed 8/13/98.
- (d) _____ U.S. Patent No.: _____, issued _____

and any legal equivalent thereof in a foreign country, including the right to claim priority and, in and to, all Letters Patent to be obtained for said invention by the above application or any continuation, division, continuation-in-part, extension, conversion to 35 USC 111(a) or substitute thereof, and any reissue, reexamination or extension of said Letters Patent and all rights under all International Conventions for the Protection of Industrial Property;

ASSIGNOR(S) hereby covenants that no assignment, sale, agreement or encumbrance has been or will be made or entered into which would conflict with this assignment;

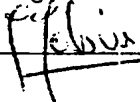
ASSIGNOR(S) further covenants that ASSIGNEE will, upon its request, be provided promptly with all pertinent facts and documents relating to said invention and said Letters Patent and legal equivalents as may be known and accessible to ASSIGNOR and will testify as to the same in any interference, litigation, or proceeding relating thereto and will promptly execute and deliver to ASSIGNEE or its legal representative any and all papers, instruments or affidavits required to apply for, obtain, maintain, issue or enforce said application, said invention and said Letters Patent and said equivalents thereof which may be necessary or desirable to carry out the purposes thereof. An attorney of record is authorized and requested by the execution of this assignment to insert into this assignment the filing date and serial number of said application when officially known.

AND the ASSIGNOR(S) requests the Commissioner of Patents and Trademarks to issue said Letters Patent of the United States and any reissue or extension thereof to the ASSIGNEE, The Regents of the University of California.

executed this

26 day of June, 2000

Signature of Inventor(s)



WHEN RECORDED, RETURN TO:

CA-5740-NP

Richard L. Myers
100 Pacifica, Suite 210
Irvine, CA 92618

Ser. No. 09/133,813

ASSIGNMENT

WHEREAS, we, WAYNE A. NODA of the City of Mission Viejo, State of California, MIKE L. JONES of the City of Capistrano Beach, State of California, SCOTT M. EVANS of the City of Santa Ana, State of California, BLAIR D. WALKER of the City of Lake Forest, State of California, and WILLIAM J. WORTHEN of the City of Coto de Casa, State of California have invented certain new and useful improvements in for a INDWELLING HEAT EXCHANGE CATHETER for which the said WAYNE A. NODA has this 13 day of AUGUST, 1998, executed application papers for United States Letters Patent thereon, for which the said MIKE L. JONES has this day of , 1998, executed application papers for United States Letters Patent thereon; for which the said SCOTT M. EVANS has this 13 day of AUGUST, 1998, executed application papers for United States Letters Patent thereon; and for which the said BLAIR D. WALKER has this 13 day of AUGUST, 1998, executed application papers for United States Letters Patent thereon; and for which the said WILLIAM J. WORTHEN has this 13 day of AUGUST, 1998, executed application papers for United States Letters Patent thereon, and

WHEREAS, NEUROPERFUSION, INC., a Corporation of the State of California, hereinafter called Assignee, having its place of business at 5 Jenner, Suite 150, California 92618 is desirous of acquiring the entire right, title and interest in and to the aforesaid invention and in and to any and all Letters Patent therefor granted in the United States of America, and in any and all countries foreign thereto;

NOW, THEREFORE, TO WHOM IT MAY CONCERN, be it known that, for and in consideration of the sum of ONE DOLLAR (\$1.00) to us in hand paid by Assignee, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, we, WAYNE A. NODA MIKE L. JONES, SCOTT M. EVANS, BLAIR D. WALKER and WILLIAM J. WORTHEN by these presents sell, assign and transfer unto Assignee, its successors and assigns, the full and exclusive right, title and interest for the territory of the United States of America and all countries foreign thereto (including the right to apply for Letters Patent in foreign countries in its own name and to claim any priority rights for such foreign applications to which such applications are entitled under international conventions, treaties, or otherwise), in and to the said invention as described in said application, and in and to all Letters Patent granted therefor,

and all divisions, reissues and continuations thereof, and we hereby authorize and request the Commissioner of Patents and Trademarks to issue all Letters Patent on said inventions or resulting therefrom to said Assignee, as assignee of the entire right, title and interest, and we covenant that we have full right so to do and agree that we will communicate to said Assignee, or its successors any and all facts known to us regarding said invention whenever requested, sign all lawful papers, and generally do everything possible to aid said Assignee, its successors and assigns, to obtain and enforce proper patent protection for said invention in all countries.

Executed this 13th day of AUGUST, 1998

Wayne A. Noda
WAYNE A. NODA

STATE OF CALIFORNIA /

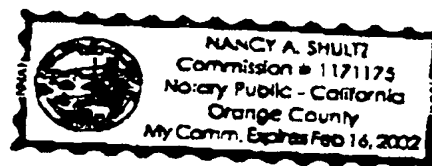
COUNTY OF ORANGE /

On August 13, 1998, before me NANCY A. SHULTZ personally appeared WAYNE A. NODA personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature Nancy A. Shultz

SEAL



Executed this _____ day of _____, 1998.

MIKE L. JONES

STATE OF CALIFORNIA /

COUNTY OF ORANGE /

On _____, before me _____ personally appeared MIKE L. JONES personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature _____

SEAL

Executed this 13 day of August, 1998.

Scott M Evans
SCOTT M. EVANS

STATE OF CALIFORNIA /

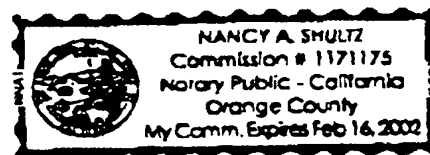
COUNTY OF ORANGE /

On 13th August, 1998, before me NANCY A. SHULTZ personally appeared SCOTT M. EVANS personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature Nancy A. Shultz

SEAL



Executed this 3rd day of August, 1998.

Blair D. Walker

BLAIR D. WALKER

STATE OF CALIFORNIA

COUNTY OF ORANGE

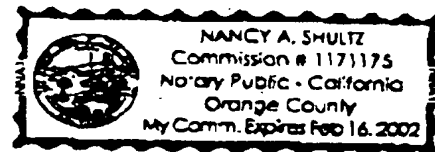
On August 13, 1998, before me Nancy A. Shultz personally appeared BLAIR D. WALKER personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature

Nancy A. Shultz

SEAL



Executed this 13th day of AUGUST, 1998.

William J. Worthen
WILLIAM J. WORTHEN

STATE OF CALIFORNIA

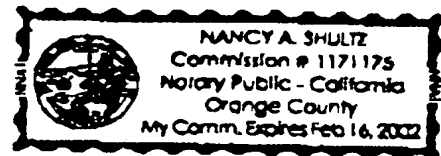
COUNTY OF ORANGE

On AUGUST 13 1998, before me NANCY A. SHULTZ personally appeared WILLIAM J. WORTHEN personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature Nancy A. Shultz

SEAL



ASSIGNMENT

WHEREAS, WE, Mike A. Jones, a U.S. citizen, residing in the City of Capistrano Beach, California, Scott M. Evans, a U.S. citizen residing in the City of Santa Ana, California, Blair D. Walker, a U.S. citizen, residing in the City of Lake Forest, California, and William J. Worthen, a U.S. citizen, residing in the City of Coto de Casa, California, have invented certain new improvements in a "Indwelling Heat Exchange Catheter", for which they have executed an application for Letters Patent in the United States, specification of which was filed on August 13, 1998, and was assigned serial no. 09/133,813.

AND WHEREAS, Alsius Corporation, a California corporation, with its principal place of business at 5 Jenner, Irvine, California 92618, desires to acquire the entire right, title, and interest in and to the said improvements and the said Application:

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) to us in hand paid, and other good and valuable consideration, the receipt of which is hereby acknowledged, we, the said inventors, do hereby acknowledge that we have sold, assigned, transferred and set over, and by these presents do hereby sell, assign, transfer and set over, unto the said Alsius Corporation, its successors, legal representatives and assigns, the entire right, title and interest throughout the world in, to and under the said improvements, and the said application and all divisions, renewals and continuations thereof, and all Letters Patent of the United States which may be granted thereon and all reissues and extensions thereof, and all rights of priority under International Conventions and applications for Letters Patent which may hereafter be filed for said improvements in any country or countries foreign to the United States, and all Letters Patent which may be granted for said improvements in any country or countries foreign to the United States and all extensions, renewals and reissues thereof; and we hereby authorize and request the Commissioner of Patents of the United States, and any Official of any country or countries foreign to the United States, whose duty it is to issue patents on applications as aforesaid, to issue all Letters Patent for said improvements to the said Alsius Corporation, its successors, legal representatives and assigns, in accordance with the terms of this instrument.

AND WE HEREBY covenant and agree that we will communicate to the said Alsius Corporation, its successors, legal representatives and assigns, any facts known to us respecting said improvements, and testify in any legal proceeding, sign all lawful papers, execute all divisional, continuing and reissue applications, make all rightful oaths and generally do everything possible to aid the said Alsius Corporation, its successors, legal representatives and assigns, to obtain and enforce proper patent protection for said improvements in all countries.

STATE OF CALIFORNIA)

COUNTY OF ORANGE)

) SS:

By: Mike L. Jones/InventorDated: 4/27/99

CASE NO.: CA-5740
Serial No.: 09/133,813
Page 2

ASSIGNMENT

STATE OF CALIFORNIA)
COUNTY OF ORANGE)

) SS:
)

By: Scott M. Evans
By: Scott M. Evans/Inventor

Dated: 4/15/99

STATE OF CALIFORNIA)
COUNTY OF ORANGE)

) SS:
)

By: Blair D. Walker
By: Blair D. Walker/Inventor

Dated: 4/20/99

STATE OF CALIFORNIA)
COUNTY OF ORANGE)

) SS:
)

By: William J. Warden
By: William J. Warden/Inventor

Dated: 4/20/99